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IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

FILED  
2008 APR -7 PM 1:31  
RICHARD R. ROOPER, CLERK

STATE OF TENNESSEE, ex rel. ROBERT  
E. COOPER, JR., Attorney General &  
Reporter,

Plaintiff,

v.

No. 07C3365

EXPYFI, LLC, a Georgia limited liability  
company, doing business as www.expyfi.com,  
CREDITMAX FINANCIAL, LLC, a Georgia  
limited liability company, CREDIT PHD., INC.,  
a Georgia nonprofit corporation, and  
ANTHONY "TONY" IRVING THOMAS aka  
ANTHONY J. THOMPSON,  
individually and doing business as  
EXPYFI, LLC, CREDITMAX FINANCIAL,  
LLC, CREDIT PHD., INC., and  
www.expyfi.com,

Defendants.

**CIVIL CONTEMPT ORDER GRANTING STATUTORY CIVIL PENALTIES  
FOR FAILURE TO COMPLY WITH THE NOVEMBER 21, 2007 ORDER  
GRANTING STATUTORY TEMPORARY INJUNCTION  
AGAINST ALL DEFENDANTS**

The State's Motion to Enforce Order Granting Statutory Temporary Injunction Against  
Defendants came on to be heard at an enforcement hearing on March 28, 2008 at 9:00 a.m.  
before the Honorable Judge Barbara Haynes.

The Court finds that all of the State's pleadings should be incorporated into the record for

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the purposes of this hearing. The Court further finds that the Defendants have failed to file any responsive pleading to the State's Motion. After consideration of all the pleadings and filings in this matter and arguments of Counsel at the hearing, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

Based upon the review of the record and pursuant to Tenn. R. Civ. P. 65.06 and Tenn. Code Ann. § 47-18-108(c), the Court grants the State's Enforcement Motion in its entirety. Specifically, the Court finds that pursuant to Tenn. Code Ann. § 47-18-108(c) the court may order up to a \$2,000.00 civil penalty per violation of an injunction of order issued under that section of the Tennessee Consumer Protection Act of 1977.

Given the broad scope of Tenn. Code Ann. § 47-18-108(c) and the remedial purposes and intent of the Tennessee Consumer Protection Act, this Court finds that it could impose up to \$2,000.00 for each and every violation of the Order and for each day such violation occurred which would result in a civil penalty award much larger than the one ordered. This result would have been consistent with the Tenn. Code Ann. § 47-18-102 which states that the Tennessee Consumer Protection Act is to be liberally construed and the liberal conception of violation in Federal Trade Commission Act case law as seen in *United States v. Reader's Digest Association, Inc.*, 662 F.2d 955, 970, (3d Cir. 1981) where the Court held that each prohibited mailing in violation of a Consent Order constituted a separate violation of the Consent Order.

However, for convenience purposes, this Court finds that it will use a "per day" basis for the calculation of the "per violation" language in Tenn. Code Ann. § 47-18-108(c) particularly because the Defendants' failure to provide customer records was a central component of the injunction. This Court recognizes that under the related civil contempt statutory provision Tenn.

Code Ann. § 29-9-104(b) the Court is authorized to assess per diem monetary awards based upon Defendants' failure to take a court-ordered action.

Defendants were ordered to produce consumer records and financial accounting information no later than five (5) days following the entry of the Order on November 21, 2007 and were temporarily enjoined from engaging in credit services business without properly registering a bond with the State of Tennessee. Defendants failed to produce these documents as ordered and continued to engage in credit services business in violation of the Court's Order so the State filed a Motion to Enforce Order Granting Statutory Temporary Injunction. Defendants continued to not produce any documents until finally producing consumer records on January 9, 2008 and only produced partial financial accounting information on January 9, 2008. Defendants have continued to engage in credit services business in violation of the Court's Order.

Defendants have violated multiple provisions of the Court's Order. For one violation alone, the State could seek civil penalties of up to two thousand dollars (\$2,000.00) per day which would result in a penalty of more than sixty thousand dollars (\$60,000.00) if Defendants did not comply with the Court's Order prior to the hearing. At this time, the State, however, is only seeking civil penalties for these violations in the amount of four thousand five hundred dollars (\$4,500.00).

The State seeks one thousand five hundred dollars (\$1,500.00) for failure to timely comply with the Order of this Court that Defendants produce consumer records. The State seeks one thousand five hundred dollars (\$1,500.00) for failure to fully comply with the Order of this Court that the Defendants produce financial records. The State seeks one thousand five hundred dollars (\$1,500.00) for failure to comply with the Order of this Court that Defendants are enjoined from engaging in credit services business in Tennessee. Therefore, the State seeks a total penalty of

four thousand five hundred dollars (\$4,500.00). for civil penalties for non-compliance.

Therefore, the Court orders that Defendants are held in civil contempt for failing to perform a court-ordered action. The Court orders that Defendants immediately pay the State of Tennessee, General Fund the sum of four thousand five hundred dollars (\$4,500.00) pursuant to Tenn. Code Ann. § 47-18-108(c). All other civil penalties and sanctions available to the State and this Court are reserved.

Additionally, pursuant to Tenn. Code Ann. § 47-10-108(b)(4), this Court orders the award of payment of reasonable and appropriate attorneys' fees to the State of Tennessee as described in the Affidavit of Jennifer E. Peacock for the filing of the Motion to Enforce Order Granting Statutory Temporary Injunction. Specifically, the Court orders the Defendants to pay nine hundred dollars (\$900.00) to the Tennessee Attorney General's Office as reasonable and appropriate attorneys' fees and costs for its Motion. These fees may be used for consumer protection purposes at the sole discretion of the Attorney General and Reporter. All other fees and costs of the Attorney General's Office, such as those that were incurred in the investigation and the filing of the complaint, are reserved for a later hearing.

The civil penalties and attorneys' fees ordered herein are a final order for which execution, garnishment and all legally permitted collection may issue. The State is authorized to seek compliance with the Temporary Injunction Order for post-enforcement hearing conduct, including seeking additional civil penalties or other relief. In addition, the State is authorized to obtain attorneys' fees and costs associated with the collection of these monetary awards and statutory interest for any unpaid amounts after thirty (30) days of entry of this Order.

## COURT FINDINGS

This Court finds that Defendants violated the following injunctive provisions on paragraph 7, page 5 of the Court's Temporary Injunction Order dated November 21, 2007 by continuing operation of the toll-free recorded message offering seminars in Tennessee and by continuing operation of [www.qixscore.com](http://www.qixscore.com) without proper disclosures that Defendants' services are not available in Tennessee and/or to Tennessee consumers until some time after the State filed its Motion to Enforce Order Granting Statutory Temporary Injunction and Defendants are currently operating a website found at [www.creditphd.net](http://www.creditphd.net) without proper disclosures that Defendants' services are not available in Tennessee and/or to Tennessee consumers:

- (A) Defendants shall be strictly prohibited from soliciting, providing, advertising, promoting, or conducting seminars or presentations of any type in person, via the Internet or telephone, or otherwise offering, in any manner, the services of a credit services business within this state, without first registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011;
- (B) Defendants shall be strictly prohibited from selling, providing, performing or representing, to any person that they can or will sell, provide, or perform any of the following services in return for payment of money or other valuable consideration: (i) improving a consumer's credit record, history, or rating; (ii) obtaining an extension of credit for a consumer; or (iii) providing advice of assistance to a consumer with regard to either (i) or (ii).
- (E) Defendants shall fully comply with the Tennessee Credit Services Businesses Act, Tenn. Code Ann. § 47-18-1001 *et seq.*; and
- (F) Defendants shall timely and fully comply and cooperate with the Attorney General's Office when information is sought pursuant to state law, regulation or rule.

Furthermore, the Court finds that Defendants failed to turn over any or all consumer records and documents relating to Tennessee consumers or any consumers who attended

Defendants' seminars or presentations held in the State of Tennessee to the State as required by paragraph 8, page 6 of the Order dated November 21, 2007 until January 9, 2008.

Furthermore, the Court finds that Defendants have failed to fully comply with the Court's Order to provide to the Court or the State a detailed accounting of all assets in Defendants' possession relating to Defendants' businesses and a list of all bank accounts, bank addresses, bank telephone numbers and bank contact names, bank account numbers, and the amounts currently held in those accounts and held since the date Defendants commenced trade or commerce in the state of Tennessee as of the date of the Court's Order as required by paragraph 9, page 7 of the Order dated November 21, 2007. Defendants only provided a couple months' of bank account statements on January 9, 2008.

The Court finds that Defendant Thomas was provided a copy of the November 21, 2007 Order Granting Statutory Temporary Injunction at the conclusion of that hearing and, as instructed, that counsel for the State met with Defendant Thomas after the hearing during which document production pursuant to the Court's Order was specifically discussed.

The Court finds that counsel for the State used good faith steps to seek compliance with the November 21, 2007 Temporary Injunction Order by contacting Defendant Thomas by telephone on both November 26, 2007 and December 5, 2007 advising him of the State's intention to seek enforcement of the order and asking for an immediate response regarding when Defendants intended to fully comply with the Court's Order. Counsel for the State agreed to continue this matter several times while attempting to resolve this matter in a mutually agreeable manner, however, Defendant Thomas has now failed to respond to the State's multiple attempts to contact him during March 2008. The last contact from Defendant Thomas was an electronic

mail on March 1, 2008 in response to Counsel for the State's electronic mail dated February 29, 2008 notifying Defendant Thomas that this Motion would be heard on March 28, 2008.

The Court specifically finds at least the following violations of its November 21, 2007 Temporary Injunction Order which is the basis of the civil penalty monetary order:

- (1) Defendants operated a toll-free number at (800) 852-8366, which has a recorded message offering credit services in the State of Tennessee without registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011, until some date in December 2007 following the Motion filed on December 13, 2007;
- (2) Defendants operated [www.qixscore.com](http://www.qixscore.com) which offers credit services without proper disclaimers that Defendants' services are not available in Tennessee and/or to Tennessee consumers or without registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011 until some date following the State's Motion filed on December 13, 2007;
- (3) Defendants are currently operating [www.creditphd.net](http://www.creditphd.net) which offers credit services without proper disclaimers that Defendants' services are not available in Tennessee and/or to Tennessee consumers or without registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011;
- (3) Defendants did not produced consumer records in compliance with the November 21, 2007 Temporary Injunction Order until January 9, 2008; and
- (4) Defendants produced some financial records on January 9, 2008 but have not fully complied with the November 21, 2007 Temporary Injunction Order to produce financial accounting statements.

#### **FURTHER RELIEF**

This Court authorizes the State to seek further additional and supplemental relief from this Court as available under any Tennessee law, regulation or rule to obtain compliance from Defendants with this Order and the Court's November 21, 2007 Temporary Injunction Order, including, but not limited to, seeking further civil penalties for non-compliance for post-enforcement hearing conduct or a motion for criminal contempt for post-enforcement hearing

conduct. All other remedies sought by the State in its Complaint are reserved.

**COSTS**

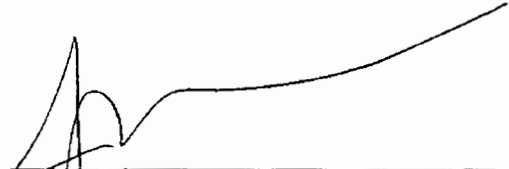
All costs associated with the State's Motion to Enforce Order Granting Statutory Temporary Injunction Against Defendants shall be taxed against Defendants.

IT IS SO ORDERED.

  
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JUDGE BARBARA N. HAYNES

SUBMITTED FOR APPROVAL:

ROBERT E. COOPER, JR.  
Attorney General & Reporter  
B.P.R. No. 010934



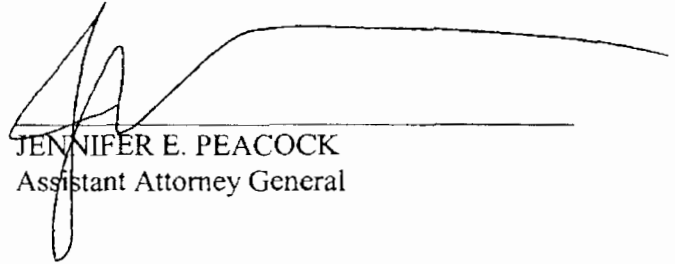
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**CERTIFICATE OF SERVICE**

I, Jennifer E. Peacock, do hereby certify that the foregoing document was served on Defendants via email to [tonyt777777@yahoo.com](mailto:tonyt777777@yahoo.com) and U.S. mail to Anthony Thomas, P.O. Box 451347, Atlanta, Georgia 31145 on this the 28th day of March, 2008.



JENNIFER E. PEACOCK  
Assistant Attorney General